

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

JOHNNY R. SIMS and TRICIA N. SIMS,

Plaintiffs,

vs.

CITIMORTGAGE, INC.,

Defendant.

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CIVIL ACTION NUMBER:

CV-2011- 11-00471

COMPLAINT

NOW COME Plaintiffs, **Johnny R. Sims and Tricia N. Sims**, and as their Complaint against the Defendant Citimortgage, Inc., avers as follows:

INTRODUCTION

Plaintiffs bring this action for violation of the Truth-in-Lending Act, 15 U.S.C. § 1601 et seq., (“TILA”), and its implementing Federal Reserve Board Regulation Z, 12 C.F.R. part 226. Defendant failed to provide notice of the transfer of ownership interest in Plaintiffs’ mortgage loan as required by 15 U.S.C. § 1641(g).

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question), and 15 U.S.C. § 1640 (Truth in Lending Act).

2. Venue is proper here because the events giving rise to Plaintiffs’ cause of action occurred in this district.

THE PARTIES

3. Plaintiffs are adult residents of Mobile County, Alabama.

4. Defendant Citimortgage, Inc. (hereinafter referred to as “Citi”), is a Delaware corporation doing business in the State of Alabama.

FACTUAL ALLEGATIONS

5. On February 15, 2001, Plaintiffs executed a real estate mortgage with Travelers Bank & Trust, FSB in the amount of \$89,946.76.

6. On January 19, 2011 beneficial interest in the Plaintiffs’ mortgage and note was assigned to Citi. A written Assignment identifying Citi as the assignee was executed on October 15, 2010 and recorded in the probate office of Mobile County, Alabama on or about November 4, 2010.

7. The mortgage loan at issue was secured by the Plaintiffs’ principal residence.

8. The Truth-in-Lending Act, at 15 U.S.C. § 1641(g), requires notification of the borrower within 30 days of any transfer or assignment of their mortgage loan to a third party. Specifically § 1641(g) states:

(g) Notice of new creditor

(1) In general

In addition to other disclosures required by this subchapter, not later than 30 days after the date on which a mortgage loan is sold or otherwise transferred or assigned to a third party, the creditor that is the new owner or assignee of the debt shall notify the borrower in writing of such transfer, including—

(A) the identity, address, telephone number of the new creditor;

(B) the date of transfer;

(C) how to reach an agent or party having authority to act on behalf of the new creditor;

(D) the location of the place where transfer of ownership of the debt is recorded; and

(E) any other relevant information regarding the new creditor.

(2) Definition

As used in this subsection, the term “mortgage loan” means any consumer credit transaction that is secured by the principal dwelling of a consumer.

15 U.S.C. § 1641(g).

9. Citi failed to provide to Plaintiffs, and the class described below, disclosures required by TILA Section 1641(g).

COUNT ONE

10. Plaintiffs reallege the allegations above as if fully set out herein.

11. With respect to Plaintiffs, Citi received by assignment a beneficial interest in their mortgage and note.

12. Citi is a "creditor" within the meaning of 15 U.S.C. § 1641(g).

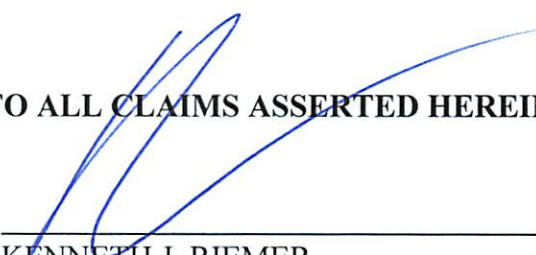
13. Said mortgage secures an interest in real estate which is used by Plaintiffs as thier principal dwelling.

14. Upon receipt of that assignment Citi was required to notify Plaintiffs in writing of such transfer, within 30 days, and make all the disclosures set out above.

15. Citi failed to notify Plaintiffs at all and therefore failed to make the requisite disclosures.

WHEREFORE Plaintiffs demand judgment for statutory damages, costs and attorneys' fees pursuant to 15 U.S.C. § 1640(a).

PLAINTIFFS DEMAND TRIAL BY JURY AS TO ALL CLAIMS ASSERTED HEREIN



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epunderwood@alalaw.com

DEFENDANT TO BE SERVED BY CERTIFIED MAIL AT THE FOLLOWING ADDRESS:

Citi Home Loan Servicing, LP
c/o The Corporation Company
2000 Interstate Park Drive
Montgomery, AL 36109

2010064382 Book-6718 Page-504
Total Number of Pages: 1

PREPARED BY & RETURN TO:

M. E. Wileman
Orion Financial Group, Inc.
2860 Exchange Blvd. # 100
Southlake, TX 76092

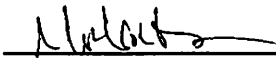
Assignment of Mortgage

Send Any Notices To Assignee.

For Valuable Consideration, the undersigned, **CITICORP TRUST BANK, FSB, F/K/A TRAVELERS BANK & TRUST, FSB 100 Commerce Drive, Newark, DE 19713 (Assignor)** by these presents does assign, and set over, without recourse, to **CITIMORTGAGE, INC. 4050 REGENT BLVD, MAIL STOP N2A-222, IRVING, TX 75063 (Assignee)** the described mortgage, together with certain note(s) described with all interest, all liens, any rights due or to become due thereon, executed by **JOHNNY R. SIMS AND TRICIA N. SIMS, HUSBAND AND WIFE** to **TRAVELERS BANK & TRUST, FSB**. Said mortgage Dated: 2/15/2001 is recorded in the State of AL, County of Mobile on 2/20/2001, as Book 4934 Page 0839 AMOUNT: \$ 89,946.76

IN WITNESS WHEREOF, the undersigned corporation has caused this instrument to be executed by its proper officer. Executed on: October 15, 2010
CITICORP TRUST BANK, FSB, F/K/A TRAVELERS BANK & TRUST, FSB

By:



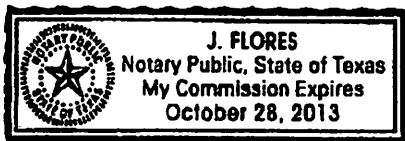
M. Mathews, Vice President



SIMMS EK *02136491*

State of Texas, County of Tarrant

On 10/15/2010, before me, the undersigned, personally appeared M. Mathews, who acknowledged that he/she is Vice President of/for CITICORP TRUST BANK, FSB, F/K/A TRAVELERS BANK & TRUST, FSB and that he/she executed the foregoing instrument and that such execution was done as the free act and deed of CITICORP TRUST BANK, FSB, F/K/A TRAVELERS BANK & TRUST, FSB.





Notary public, J. Flores
My commission expires: October 28, 2013

State of Alabama-Mobile County
I certify this instrument was filed on:
November 4, 2010 @ 2:15:02 PM
S.R. FEE \$2.00
RECORDING FEES \$3.50
TOTAL AMOUNT \$5.50

2010064382
Don Davis, Judge of Probate

AL Mobile

CITIFIP/SIR.PER/CITI